


# Clicks Retailers (Pty) Ltd

Reg No: 2000/013054/07 VAT Reg No: 4520189236

Trading in the name of 

Health Market Inquiry into the Private Healthcare Sector  Attention: Clint Oellermann <a href="mailto:submissions@healthinquiry.net">submissions@healthinquiry.net</a> <a href="mailto:clinto@healthinquiry.net">clinto@healthinquiry.net</a> <a href="mailto:ThembaMa@compcom.co.za">ThembaMa@compcom.co.za</a>	Our ref:	Keith Warburton
	Your ref:	Clint Oellerman
	Direct No:	021 460 1596
	Direct fax:	021 460-1805
	Email:	<a href="mailto:keith.warburton@clicksgroup.co.za">keith.warburton@clicksgroup.co.za</a>
	Date:	05 March 2015

Dear Sirs

**RE: HEALTH MARKET INQUIRY / SUBMISSIONS / OPPORTUNITY FOR CORRECTION OF INACCURATE OR MISLEADING INFORMATION AND RESPONSE TO ADVERSE ALLEGATIONS**

We refer to your notice to stakeholders inviting stakeholders to correct inaccurate or misleading information and/or respond specifically to adverse allegations.

The Independent Community Pharmacy Association (“ICPA”) and the Pharmaceutical Society of South Africa (“PSSA”), *inter alia*, have made submissions in response to the call for submissions issued by the Panel in relation to the market inquiry into the private healthcare sector. Certain of these submissions purport to raise issues relating to community pharmacy and in particular corporate owned community pharmacy. We comment as follows:

1. Dispensing fees

Predatory pricing

- 1.1 One of the issues raised by ICPA, and also alluded to by PSSA concerns dispensing fees. It is alleged that reduced dispensing fees negotiated by corporate owned community pharmacies with medical schemes raise predatory pricing concerns under the Competition Act (“Act”). This contention is not correct. The suggestion is that corporate owned pharmacies negotiate low fees with medical schemes “to a rate that would not be viable to any independent community pharmacy”.<sup>1</sup> This is not a correct representation of the relationship between corporate owned community pharmacies and medical schemes.

Approximately 70% of Clicks’ pharmacies turnover is with medical schemes. Medical schemes set the dispensing fees at which they will reimburse community pharmacies, which fees apply to both independent community pharmacies and corporate owned community pharmacies. Clicks, and

<sup>1</sup> ICPA submission – pg. 3

community pharmacies in general, have little ability to negotiate these fees with medical schemes. Medical schemes generally unilaterally impose the pricing on pharmacies. If the pharmacy charges more than the determined dispensing fee, the medical scheme's member/patient is obliged to make a co-payment of the excess to the pharmacy. Clicks pharmacies accordingly seek to charge the dispensing fee which has been determined by the medical scheme concerned, in order to promote affordability, which accords with the Department of Health's ("DOH") stated objective of making medicines more affordable

Dominance and market power

- 1.2 Clicks is not dominant in the pharmacy market and only has a market share of 18.41%.<sup>2</sup> Clicks does not have market power and is not able to control prices or to exclude competition or to behave to an appreciable extent independently of its competitors, customers or suppliers as *inter alia* referenced above. In fact Clicks must act in a manner which competes with competitors, and has the effect of being advantageous to customers, if Clicks is to succeed in business.

Low margins / operating at a loss

- 1.3 Even if Clicks were found to be dominant or to have market power, which is denied, ICPA's allegation that Clicks is engaged in predatory pricing because it is operating its dispensaries "*at a loss or at very low margins*"<sup>3</sup> is not correct. Clicks' pharmacies do not generally operate at a loss and in aggregate operate at a profit. As will be seen from 1.4 below losses are essentially incurred in the early stages after a pharmacy opens.

Cross subsidization / time to mature

- 1.4 ICPA contends that corporate pharmacies cross-subsidize loss making dispensaries by having profitable front shops.<sup>4</sup> ICPA implies that Clicks reported in 2011, ( at page 14 footnote 17 of the ICPA report) that certain of its pharmacies are unprofitable pending maturity until sufficient sales volumes are achieved. This is not a report by Clicks, but about Clicks by an analyst. The report is however correct insofar as it provides that in building a new pharmacy, it takes a few years for the pharmacy to become profitable, during which period the pharmacy has to build volume and efficiency It is not correct that the Clicks business model is for pharmacies to be cross-subsidized by profitable front shops. The Clicks business model is designed to have profitable pharmacies, which are managed and measured as separate business units. The loss making is essentially experienced in the early stages after the pharmacy is established. Clicks does not agree that pharmacies are forced to dispense "*at a loss or at very low margins, effectively excluding reimbursement for advice for services as a trained professional*".<sup>5</sup>

<sup>2</sup> IMS Data – December 2014 – Annexure A

<sup>3</sup> ICPA submission – 1<sup>st</sup> paragraph pg. 15

<sup>4</sup> ICPA submission – last paragraph pg.14

<sup>5</sup> ICPA submission 1<sup>st</sup> paragraph pg.15

### Fees differential

- 1.5 In fact, independent community pharmacies are not prejudiced in relation to corporate owned community pharmacies, as in certain instances independent community pharmacies are paid higher dispensing fees than corporate owned community pharmacies. For example, Clicks is aware that certain medical schemes e.g. Discovery Health, pay independent community pharmacies significantly higher dispensing fees than they pay corporate owned community pharmacies.<sup>6</sup> The referenced document indicates that Discovery Health reimburses independent community pharmacies at a rate of 36%, capped at R59.40 (VAT inclusive), whereas corporate owned community pharmacies are reimbursed at 30.78% capped at R30.78 (VAT inclusive), for the referenced Discovery schemes.

### Corporate and courier pharmacy

- 1.6 PSSA contends that the dispensing fee is “*determined by market forces driven by competition between large corporate and courier suppliers who generally supply medicines with the dispensing fee below the marginal or average variable cost.*”<sup>7</sup> This is not correct, as is evident from 1.3 and 1.4 above.

## 2 DSP networks

The table contained at pages 10 to 12 of the ICPA submission is not factually correct regarding DSP networks.<sup>8</sup> For instance, Polmed is a closed scheme but Medirite is also part of the DSP network for this scheme.

## 3 Courier pharmacies having effect of splitting patient profiles

Both ICPA and PSSA contend that courier pharmacies by delivering chronic medicines to patients compromise patients’ healthcare in that this causes a patient to use different suppliers for acute and chronic medicines. It is argued by ICPA and PSSA that this splitting of service providers has the consequence that the pharmacy who provides a patient with acute medication will not have the complete patient chronic medicine profile available, which could impact on interactions on medicines and patient safety.

Clicks supports the contention that courier pharmacy could have a prejudicial impact on patient healthcare, and agrees that this is not an ideal patient management protocol. Despite this not being an ideal patient management protocol, a number of medical schemes are choosing to operate courier services for chronic medicines and are growing this channel. Discovery and Med Scheme are examples in point. It should be noted at this stage, that where DSP arrangements are contracted by medical aid schemes, this is largely regarding supply by courier pharmacies of chronic medicines, HIV related medicines and specialised medication e.g. oncology medicine.

<sup>6</sup> See annexed Discovery Health : Independent Pharmacies document “Appointment as Non-Exclusive Community Pharmacy Designated Service Provider (DSP)” – Annexure B

<sup>7</sup> PSSA submission – 1<sup>st</sup> paragraph pg.7

<sup>8</sup> Table 3 pages 10- 12 of ICPA submission

#### 4 Landlords and leases

- 4.1 ICPA contends that Clicks is given preferential treatment by allowing Clicks better rental rates per square meter. If, in fact, there is a differential in rates per square meter, this would be because Clicks occupies significantly larger premises than an independent community pharmacy. This differentiation is permissible.
- 4.2 PSSA submits that, within a shopping center, licenses have been issued by the DOH for a corporate owned community pharmacy in a centre which already has an independent community pharmacy. Where this occurs, this is in accordance with the DOH's licensing regulations under the Pharmacy Act. The DOH's licensing regulations determine, on a foot-count basis, how many pharmacies may be accommodated within a shopping centre.

#### 5 General

The submissions by independent pharmacies that lay ownership of pharmacies has not promoted accessibility to pharmacy services and medicines are not correct. Clicks has established community pharmacies in rural areas of South Africa, and in low-income and high-density areas, bringing much needed medicine and services to such areas. Approximately 25% of Clicks' pharmacies are in such areas.

By opening pharmacies in low-income, high-density and rural areas, Clicks and other corporate owned community pharmacies are promoting accessibility to pharmacy services and medicines at competitive prices. Clicks' dispensing fees across all its pharmacies are uniform, irrespective of whether the pharmacies are in rural, low-income, or high-density areas or major metropolitan and more affluent ones.

The independent community pharmacies also contend that the opening of pharmacy ownership to lay owners was the death knell of independent community pharmacy. This is also not correct. Lay ownership was introduced in 2003, and some 12 years later, independent community pharmacies still enjoy 57.95% share by value of the community pharmacy market, excluding schedule 0 medicines, in South Africa. <sup>9</sup>

Clicks and other corporate owned community pharmacies also often provide a superior range of services, for example clinics at various pharmacies which provide the additional benefits of nursing and other clinic services for the benefit of customers.

Yours faithfully




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KEITH WARBURTON

Chief Operating Officer of Clicks Retailers (Pty) Ltd

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<sup>9</sup> IMS data – December 2014 – Annexure A

	VALUE MARKET SHARE DEC 13	VALUE MARKET SHARE DEC 14	CHANGE
INDEPENDENT PHARMACIES & SMALL INDEPENDENT GROUPS	58.38%	57.95%	-0.43%
NATIONAL MANAGED CHAIN PHARMACIES (Other)	17.77%	18.10%	0.34%
SUPERMARKET GROUP PHARMACIES	4.17%	4.05%	-0.11%
PRIVATE HOSPITAL & PHARMACY BUYING GROUP	0.84%	0.76%	-0.09%
PRIVATE HOSPITAL GROUPS	0.65%	0.68%	0.03%
RETAIL BUYING GROUP OUTLETS & SMALL WHOLESALERS	0.06%	0.05%	-0.01%
CLICKS	18.14%	18.41%	0.27%

KW



# Discovery Health: Independent pharmacies

## Appointment as non-exclusive independent community pharmacy network designated service provider (DSP)

Please complete and send the form by fax to 011 539 2784 or email at [provider\\_administration@discovery.co.za](mailto:provider_administration@discovery.co.za)

Pharmacy owner details			
Owner name and surname			ID number
Pharmacy details	Pharmacy 1	Pharmacy 2	Pharmacy 3
Name of pharmacy			
BHF billing pharmacy number			
Physical address			
Building name and number			
Street name and number			
Suburb			
Province			
Postal code			
Postal address			
PO Box			
Suburb			
City			
Postal code			
Contact details			
Pharmacy telephone			
Pharmacy fax			
Email: Payment Bureau			

**Provisions for participation:** (*the pharmacies described above will jointly hereinafter be referred to as the "pharmacy"*)

- This contract replaces any previous community pharmacy network agreement.
- The pharmacy agrees to act in accordance with all medicine and pharmacy legislative requirements related to the procurement and dispensing of scheduled medicine and will ensure that the pharmacy and responsible pharmacists are registered and remain registered with the South African Pharmacy Council.
- The pharmacy agrees to subsequent tariff increases and other changes as applied, unless the agreement is terminated.
- The pharmacy agrees that it will **not charge** members of the medical schemes administered by Discovery Health (Pty) Ltd and their registered dependants, fees that are higher than the rates described below and agreed to by the pharmacy.
- The parties agree that if the pharmacy fails to comply with this agreement, the pharmacy will be suspended from all pharmacy networks.
- The pharmacy agrees that for those pharmacies participating in the Discovery Health Performance Based Remuneration dispensing fee model (PBR dispensing fee model), the tariffs are subject to change as negotiated per the PBR dispensing fee model for chronic authorised items for the PBR variable dispensing fee to apply.
- The pharmacy undertakes to give preference to generic items on the Discovery Health Chronic Illness Benefit formulary when dispensing chronic medicine.
- The pharmacy confirms that all the pharmacies described above are independently owned, and are stock-keeping pharmacies situated in close proximity to or within the community that is served, where the majority of members visit the pharmacy to discuss their medicine needs and receive their prescribed medicines. The pharmacy confirms that none of the above pharmacies are courier pharmacies.
- The pharmacy agrees to Discovery Health making the details set out in this form available on [www.discovery.co.za](http://www.discovery.co.za) and to Discovery Health call centre consultants who will communicate these details to members as and when requested.
- The pharmacy undertakes to obtain explicit approval from Discovery Health to use its brand or logo, which may be subject to further terms and conditions.
- The pharmacy accepts responsibility to arrange the chosen rates as below with their appropriate software vendor.
- The parties agree that the pharmacy is subject to audits and if the pharmacy is suspected of fraudulent behaviour, the member will be directly reimbursed instead of the pharmacy pending the outcome of the investigation.

		Available preferred provider network rates for independent community pharmacies for SEP items	Office use
		<i>Join by subscribing to three networks and applicable rates by ticking the block.</i>	
1.	<input type="checkbox"/>	1. KeyCare Plans: 18.24% capped at R18.24 with a R7.00 floor price (VAT incl.)	435
2.	<input type="checkbox"/>	2. Delta network options: 29.64% capped at R29.64 (VAT incl.) Acute medicines only.	990
		<b>Rates for the balance of plans excluding KeyCare and Delta plans for SEP items</b>	
		<i>(Please tick one of the two options, either 3 or 4)</i>	
3.	<input type="checkbox"/>	3. Community pharmacy network rate of: 36% capped at R59.40 (VAT incl.)	434 & 992
4.	<input type="checkbox"/>	4. Corporate network rate of: 30.78% capped at R30.78 (VAT incl.) and Insured Benefit	662
		<b>Non-SEP and surgical rates will remain at 36% capped R59.40 (VAT incl.) for all plans.</b>	

Effective date	Date signed	Your signature
2 0 0 1 0 1 0 1	2 0 Y Y M M D D	

The pharmacy and all healthcare providers agree to take part in the Discovery Health preferred provider pharmacy network described in this application form. If the pharmacy or Discovery Health want to terminate or change this agreement, each party is required to give each other one calendar months' written notice. Please send termination/change request and the applicable BHF number(s) to: [provider\\_administration@discovery.co.za](mailto:provider_administration@discovery.co.za)

Medical scheme	Option or plan	Destination code	Independent community pharmacy network rates and codes	Discounted corporate network rates and codes	Courier network rates and codes	Non-network rates and codes
			(VAT incl.)	(VAT incl.)	(VAT incl.)	(VAT incl.)
All Schemes/Plans	Non-SEP and surgical		Reason code 476 <i>Paid at agreed dispensing fee. Confirm price diff.</i>	Reason code 476 <i>Paid at agreed dispensing fee. Confirm price diff.</i>	Reason code 476 <i>Paid at agreed dispensing fee. Confirm price diff.</i>	Reason code 592 <i>Non-network provider. Member to pay the balance</i>
	Executive and Comprehensive	DHEA0000	DISCK 36% capped at R59.40	DISCK 30.78% capped at R30.78	DISCK 29.64% capped at R29.64	DISCK 29.64% capped at R29.64
	Priority, Saver and Core	DHEA0000	DISCK2 36% capped at R59.40	DISCK2 30.78% capped at R30.78	DISCK2 29.64% capped at R29.64	DISCK2 29.64% capped at R29.64
	Classic Delta Saver and Core	DHEA0000	DISCD26A 29.64% capped at R29.64	DISCD20 22.80% capped at R22.80	DISCKD 29.64% capped at R29.64*	DISCKD 29.64% capped at R29.64*
Discovery Health Medical Scheme	Classic Delta Comprehensive	DHEA0000	DISC26A 29.64% capped at R29.64	DISCD20 22.80% capped at R22.80	DISCKD1 29.64% capped at R29.64*	DISCKD1 29.64% capped at R29.64*
	Discovery KeyCare	DHEA0000	DISCK16A 18.24% capped at R18.24 with a R7.00 floor price	DISCK16 18.24% capped at R18.24	DISCKK 29.64% capped at R29.64*	DISCKK 29.64% capped at R29.64*
		DIAV0000	DISCKAV 36% capped at R59.40	DISCKAV 30.78% capped at R30.78	DISCKAV 29.64% capped at R29.64	DISCKAV 29.64% capped at R29.64
Anglovaal Group Medical Scheme	Basic	ALAT0000	DISCKALS 36% capped at R59.40	DISCKALS 30.78% capped at R30.78	DISCKALS 29.64% capped at R29.64	DISCKALS 29.64% capped at R29.64
	Enhanced	ALAT0000	DISCKALT 36% capped at R59.40	DISCKALT 30.78% capped at R30.78	DISCKALT 29.64% capped at R29.64	DISCKALT 29.64% capped at R29.64
Altron Medical Aid						